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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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STB DOCKET NO. AB-290 (Sub- No. 311X)

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NORFOLK SOUTHERN RAILWAY COMPANY  
- PETITION FOR EXEMPTION -  
- ABANDONMENT OF RAIL FREIGHT SERVICE -  
IN BALTIMORE CITY AND BALTIMORE COUNTY, MD

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ENTERED  
Office of Proceedings  
APR 05 2010  
Part of  
Public Record

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NOTICE OF INTENT TO FILE AN  
OFFER OF FINANCIAL ASSISTANCE

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REQUEST TO TOLL THE TIME PERIOD FOR FILING AN OFA

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I, Eric S. Strohmeyer, pursuant to the applicable regulations of the Surface Transportation Board ("STB" or "Board") herewith file this formal Notice of Intent to File an Offer of Financial Assistance (OFA), to purchase all of the Freight Operating Rights, Freight Operating Easement(s), any related Operating Agreements or Leases, and all rights the Norfolk Southern Railway Company

("NSR"), or any of its subsidiaries or affiliates, desires to abandon, which pertain to that portion of the line, presently known as the Cockeysville Industrial Track ("CIT"), formerly the main line of the Northern Central Railway Company, together with all the rights associated with all branch lines and spur tracks associated with the main line, as more fully described in the Petition for Exemption filed by NSR in the above entitled proceeding, which Line NSR describes as beginning in Baltimore City at or near Milepost UU-1.00, (located just north of Wyman Park Drive, formerly Cedar Avenue), and which terminates on the south side of the bridge at milepost UU 15.44 (Western Run), just north of Cockeysville, Baltimore County, Maryland, in the vicinity of the former Ashland station, together with the branch line known as the Hunt Valley Industrial Track, which connects to the Line at or near milepost 13.0, just north of where the line crosses Warren Road, and which extends to Hunt Valley Mall; the Cockeysville Industrial Park branch, which connects to the Hunt Valley Industrial Track a few hundred meters west of where the Hunt Valley Industrial Track connects to the main line at MP 13.0, and which extends into and serves the Cockeysville Industrial Park and shippers located adjacent to Stenersen Lane and Beaver Court; and the Public Deliver Track which branch line connects to the main line at the former Wye in Cockeysville, near MP 13.8, which branch line formerly provided service to the Beaver Dam Quarry, Stenersen Mahogany, Veneer Manufacturing Company, and Pure Oil Company, and which presently can be used to provide service to shippers located in the industrial park accessed via Williamson Lane, Veneer Lane, and Beaver Dam Road, together with the Cockeysville Wye and all other spurs, tracks, and other rights or privileges associated with the Line, hereinafter the "Line." The original Line went from Baltimore, Maryland to York, Pennsylvania. 35.6 miles of the Line were in Maryland.

In addition to myself, it is anticipated that, at a minimum, four other Offerors will be joining me in filing a joint OFA in this proceeding. They are Mr. James Riffin, Ms. Lois Lowe, Ms. Zandra Rudo, and Mr. Carl Delmont. The Offerors are financially responsible persons, that is the Offerors have, or within a reasonable time will have, the financial resources to fulfill all of their proposed contractual obligations.

Attached to this Notice of Intent is a Motion for a Protective Order. After rendering a ruling on this motion, I will make available to the Board, filed under seal, certain confidential documents and information in connection with the Offeror's proposed Offer of Financial Assistance, which documents shall include, but is not limited to, this Offerors' personal financial statement.

Pursuant to 49 U.S.C. § 10904, and 49 CFR 1152.27(a) the undersigned hereby requests that NSR provide me and the Board with the following information<sup>1</sup>:

1. An estimate of the annual subsidy required to keep the Line or a portion of the Line in operation;
2. Provide the minimum purchase price for the line, plus an explanation of how NSR arrived at that price;
3. Norfolk Southern's most recent reports on the physical condition of that part of the Line involved in the proposed abandonment or discontinuance;
4. Traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over the Line, including, but not limited to:
  - A. A copy of any agreements Norfolk Southern, or any of its affiliates or subsidiaries, is a party to, which pertain in any way to the Line, including but not limited to, any Freight Operating Rights, Trackage Rights Agreements, Freight Operating Easement(s)

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<sup>1</sup>Pursuant to past decisions of this Board, I recognize that the request for some of the information sought herein might, at first glance, appear to exceed the requirements of 49 CFR 1152.27(a). (See the Board's decision in STB docket # AB 167 - Sub 1190 X - *Consolidated Rail Corporation - Abandonment Exemption - In Hudson County, NJ* decision at 3 (footnote 3) served January 7, 2009). However, all the information requested herein is highly relevant to this proceeding and is absolutely necessary for submitting an OFA in this proceeding.

and any related Operating Agreements or Leases, and any agreements Norfolk Southern has, or contemplates having, involving the State of Maryland, the Maryland Department of Transportation, the Maryland Transit Administration, or any other Maryland State or Local agency or entity, hereinafter "State of Maryland;"

B. A copy of all papers, documents or agreements Norfolk Southern has received, has in its possession, or has knowledge of, which pertain in any way to any agreements Fleischmann's Vinegar, Baltimore Gas and Electric Company, Imerys, or any other present, former or potential shipper, have made which pertain in any way to the use of, or non-use of, the Line, including but not limited to any agreement(s) any shipper on the Line has made with the State of Maryland.;

5. Any other information which relates to Norfolk Southern's present or prior use of the Freight Operating Rights, Freight Operating Easement(s) and Operating Agreements or Leases, which pertain to the Line, including but not limited to:

A. Any payments made to the State of Maryland for the use of the Line, and the basis for the payments;

B. The number of times the Line was used in 2003 to the present (2010), and the number of rail cars delivered to and / or the number of rail cars received from, each shipper on the line, for each time the Line was used;

C. The number of times the Line was unavailable for Norfolk Southern's use from 2003, to the present (2010), and the reason(s) why the Line was unavailable;

D. The date the Line was taken out-of-service, due to double-tracking the Line, and the date the double-tracking project was completed and the Line was available for use;

E. The speed limits on the Line, and any other restrictions which pertain to the use of the Line, by Milepost;

F. Which switches on the Line Norfolk Southern train crews may operate, and which switches on the Line are exclusively controlled by a centralized traffic control system. Which switches the train crew must wait at while a remote switch operator throws the switch, and the average amount of time the train crew had to wait for the switch to be thrown.

G. A summary of all disagreements, misunderstandings, or points of contention between Norfolk Southern and the State of Maryland concerning Norfolk Southern's use of the Line during 2003, 2004 and 2005;

H. An indication of where the Offerors would interchange rail traffic with Norfolk Southern;

I. A copy of a proposed interchange agreement.

#### **Request to Toll the Time Period for Filing an Offer of Financial Assistance (OFA)**

I respectfully request the Board toll the time period for filing an Offer of Financial Assistance in this proceeding until 45 days after NSR provides the information requested herein. In addition to providing sufficient time for the offers to prepare their OFA and the pleading, it will also permit sufficient time for the Board to adjudicate motions to compel in the event NSR does not provide<sup>2</sup> all the

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<sup>2</sup> It might be noted that NSR has had Mr. Riffin's Notice of Intent to File an OFA for nearly three months already. According to Mr. Riffin, he has still not received any information from NSR despite the Director of Proceedings kind reminder to NSR that they are obligated to provide the information requested. (See the Board's decision in this proceeding served March 22, 2010 at p. 4 )

information requested above.

Respectfully submitted,

*Eric S. Strohmeyer /s/*

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Eric S. Strohmeyer

**Certification**

I, Eric S. Strohmeyer, declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to file this Notice and Request.

*Eric S. Strohmeyer /s/*

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Eric S. Strohmeyer

CERTIFICATE OF SERVICE

I, Eric S. Strohmeyer, hereby certify that on this 2<sup>nd</sup> day of April, 2010, a copy of the foregoing Notice of Intent to File an Offer of Financial Assistance, and Request to Toll the Time Period for Filing an OFA, was served by first class mail, postage prepaid, upon :

Mr. John V. Edwards, Esq.  
Mr. James R. Paschall, Esq. ,  
Norfolk Southern Corporation,  
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Norfolk, VA 23510-9241.

Mr. Charles Spitulnik, Esq.  
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Mr. James Riffin  
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Ms. Zandro Rudo  
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Mr. Carl Delmont  
50 Scott Adam Road  
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Cockeysville, MD 21030

Ms. Lois Lowe  
50 Scott Adam Road  
Suite 200  
Cockeysville, MD 21030

Respectfully Served and Submitted,

*Eric S. Strohmeyer /s/*

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Eric. S Strohmeyer